

BEFORE THE STATE PARKS AND RECREATION BOARD
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through XXIV pertaining to) PROPOSED ADOPTION
state parks public use)

TO: All Concerned Persons

1. On April 11, 2016, at 6:00 p.m., the State Parks and Recreation Board (board) will hold a public hearing at the Fish, Wildlife and Parks Headquarters, 1420 East 6th Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Fish, Wildlife and Parks (department) no later than April 1, 2016, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The rules as proposed to be adopted provide as follows:

NEW RULE I DEFINITIONS (1) "Board" means the Montana State Parks and Recreation Board.

(2) "Department" means the Montana Department of Fish, Wildlife and Parks.

(3) "Director" means the director of the Montana Department of Fish, Wildlife and Parks.

(4) "Division Administrator" means the administrator of the State Parks Division of the Montana Department of Fish, Wildlife and Parks.

(5) "State park" means any land under the administration of the State Parks Division of the Montana Department of Fish, Wildlife and Parks.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE II PROPERTY DISTURBANCE (1) The following are prohibited in state parks:

(a) possessing, destroying, injuring, defacing, removing, digging, or disturbing from its natural state:

(i) trees, shrubs, plants, or grasses, not including flowers, fruits, nuts, berries, cones, or fallen wood gathered by hand for personal use;

(ii) topsoil, subsoil, or permitting the disturbance or removal of topsoil or subsoil;

(iii) living or dead wildlife or fish, or the parts or products thereof, including antlers or nests, unless otherwise authorized;

- (iv) nonfossilized and fossilized paleontological specimens, cultural or archeological resources, or the parts thereof;
 - (v) a mineral resource, rock or cave formation, or the parts thereof;
 - (b) introducing wildlife, fish, or plants, including their reproductive bodies, into a state park ecosystem;
 - (c) gathering or cutting firewood for off-site use, except where otherwise authorized;
 - (d) tossing, throwing, or rolling rocks or other items inside caves or caverns, into valleys, canyons, or caverns, down hillsides or mountainsides;
 - (e) designing, constructing, placing, or using any structure, including but not limited to roads, trails, signs, or landscape features, except where otherwise authorized. Unauthorized structures are subject to removal or impoundment;
 - (f) possessing, destroying, injuring, defacing, removing, digging, or disturbing infrastructure, including but not limited to buildings, signs, or gates; and
 - (g) using a mineral or metal detector, magnetometer, or other metal detecting device, except where otherwise authorized.
- (2) In addition to any other penalty provided, individuals violating this rule may be expelled immediately from the state park, as provided in [NEW RULE XXIII].

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE III CAMPING AND LODGING (1) For purposes of this rule, the following definitions apply:

- (a) "camping" means the use of a camping unit for temporary residence or sleeping purposes;
 - (b) "camping facility" means a lodging structure for overnight sleeping purposes such as cabins, tipis, or yurts;
 - (c) "camping party" means any individual, family group, or non-family group occupying a campsite;
 - (d) "camping unit" means one sleeping device or shelter, including but not limited to a tent, motor home, camping bus, truck-mounted camping shell, pull-type camper, or other device designed and commonly used for sleeping;
 - (e) "campsite" means an area within a state park specifically designated or marked for camping;
 - (f) "dispersed camping" means camping that occurs in areas that are not highly developed and/or individually signed or numbered;
 - (g) "occupancy" means the pre-determined maximum number of camping units and/or individuals that may occupy a campsite or camping facility based on size, location, and other site attributes;
 - (h) "occupy" means the use of a campsite or camping facility for the purposes of camping, by a person or party who has paid the camping fee within the applicable time limits or when it has been reserved through the appropriate procedures of the reservation system; and
 - (i) "primary occupant" means the person that a campsite or camping facility is registered to and who must be an occupant.
- (2) The following are prohibited in state parks:

- (a) camping in any state park area, except those areas specifically designated or marked for that purpose;
- (b) utilizing a designated campsite, facility, or area for any purpose other than camping;
- (c) camping, leaving camping equipment, or otherwise attempting to occupy a campsite that has been reserved or occupied by another person or group;
- (d) leaving a camping unit or other vehicle, equipment, or personal items in a campsite overnight without a person present;
- (e) camping at one or more campsites in a state park for a period longer than 14 nights during any consecutive 30-day period, beginning with the first night occupied;
 - (i) before Memorial Day and after Labor Day, extension of the 14-night limit may be allowed if a campsite is available;
 - (ii) any extension must be approved by park staff prior to check out time;
 - (iii) extensions may not exceed 7 nights;
 - (f) exceeding established occupancy limits.
- (3) Park managers may allow individuals without a camping reservation to register for a campsite to be occupied that day and one additional campsite at the same time for another camping party, provided he or she has all the required information for registration.
- (4) Selected state park campsites or facilities may be reserved through the reservation system.
 - (a) When making a reservation, one person may register for one or more sites by paying the multiple campsite fee(s) and providing the required information regarding the occupants of the other sites.
 - (b) Reservations may only be made within the established reservation window.
 - (c) Reservations may be canceled by the department when necessary to protect campers or for resource protection.
- (5) Campsites shall be vacated by 1:00 p.m. on the day of departure.
- (6) Camping facilities shall be vacated by 12:00 p.m. on the day of departure.
- (7) Proof of disability shall be required, upon arrival, for any party reserving or occupying a campsite specifically designated for ADA use. ADA campsites that remain vacant after 7:00 p.m. may be rented to a non-ADA visitor by park staff only for that night.
- (8) Boat-in campsites shall be solely for the use of individuals traveling by watercraft as their primary mode of transportation to the site.
- (9) Park managers may establish an overflow camping area, with occupancy limits and terms and conditions for use, to accommodate a demand for camping that exceeds designated campsite capacity.
- (10) Park managers may allow emergency camping only when all designated campsites are full. Individuals using emergency areas must pay the applicable campsite fee and must vacate the site by 1:00 p.m.
- (11) The maximum limits for a single occupancy campsite shall be eight people, one camping unit, and two additional tents, unless otherwise authorized.

(12) Individuals hiking, bicycling, or traveling by similar modes of nonmotorized transportation and utilizing a shared bike-in campsite(s) must each pay the applicable campsite fee.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE IV DAY USE, GROUP USE, AND SPECIAL USE PERMIT

(1) A special use permit is required for special events, noncommercial activities, or groups with more than 30 persons.

(2) A special use permit may be required for groups of 30 or fewer people based on management or resource protection objectives for a site, special rules or regulations, or other determining factors.

(3) Reservable facilities such as shelters, pavilions, amphitheaters, meeting rooms, or other park facilities or areas may be reserved, subject to availability and approval by staff.

(a) Reservations must be made within the established reservation window.

(b) Reservations may be denied or canceled by the park manager to address public safety or resource protection concerns.

(c) When using a reservable facility, the confirmed reservation will serve as the special use permit.

(d) If not reserved, facilities are available on a first-come, first-served basis.

(4) All participants of events and activities authorized by a reservation and/or special use permit must comply with the terms and conditions of the reservation or permit.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE V FIRES (1) The following are prohibited in state parks:

(a) lighting or maintaining a fire, except in fire rings or other designated areas;

(b) lighting or maintaining a fire in a manner that causes damage or threatens to cause damage to property or park resources, or otherwise creates a public safety hazard;

(c) leaving a fire unattended;

(d) throwing or discarding lighted or smoldering material in a manner that threatens or causes damage to park property or park resources, or otherwise creates a public safety hazard;

(e) departing a campsite without completely extinguishing a campfire; and

(f) possessing, lighting, or discharging any fireworks, rockets, or other type of explosives.

(2) During dry periods or periods of high fire danger, the park manager may close all or a portion of a state park to lighting or maintaining fires.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE VI FOOD STORAGE (1) In those state parks where it is required, food, food storage equipment, food preparation equipment, garbage, and other wildlife attractants must be secured in a hard-sided vehicle or camper, secured in a designated storage locker, or secured in an Interagency Grizzly Bear Committee (IGBC) approved bear resistant container, device, or system, at night or when attractants are not immediately attended.

(a) In a dispersed camping area where a designated storage locker or hanging device is not provided, items must be suspended at least ten feet vertically above the ground (from the bottom of the suspended item) and four feet horizontally from a tree trunk or other upright support, or secured in an IGBC approved bear resistant container, device, or system.

(b) In a dispersed camping area, stock feed, except baled or cubed hay without additives, must be properly secured as with any other food item, or within an IGBC approved portable electric fence.

(c) During the period of December 1 through March 15, these food storage regulations are not in effect, unless specifically posted based on known wildlife activity.

(2) The following is prohibited:

(a) disposal or burning of trash in fire rings;

(b) intentionally feeding or attracting wildlife; and

(c) creation or use of a hanging device in designated campgrounds.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE VII SANITATION AND WASTE DISPOSAL (1) The following are prohibited:

(a) depositing garbage or other refuse, except in receptacles provided for this purpose;

(b) depositing household or commercial garbage or trash in a state park brought in from another property;

(c) disposing or dumping of sewage or waste water from trailers, campers, boats, or other portable toilets anywhere except in designated facilities;

(d) depositing refuse or fish remains, in a latrine or other bathroom facilities;

(e) disposing of human bodily waste in developed areas, except at a designated restroom, latrine, or other facility designated for such purpose;

(f) in undeveloped areas, disposal of human bodily waste within 100 feet of a water source, campsite, or trail unless otherwise posted; and

(g) using glass bottles or glass containers within a swimming area, beach, or areas otherwise posted to exclude them.

(2) The park manager may establish procedures for the disposal, containment, or carryout of human bodily waste.

(3) In addition to any other penalty provided, individuals violating this rule may be expelled immediately from the state park, as provided in [NEW RULE XXIII].

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE VIII CONTROL OF ANIMALS (1) Domestic animals are prohibited from running at large in state parks. Except where otherwise provided, domestic animals must be physically restrained or on a leash no greater than eight feet in length at all times. In state parks where hunting is allowed, dogs may be used for hunting in accordance with applicable laws and regulations and any conditions which may be established by the park manager.

(2) Domestic animals are prohibited from digging or otherwise disturbing or damaging the natural or cultural features of state parks.

(3) Domestic animals are prohibited in all areas posted to exclude them, as well as park buildings, swimming beaches, and designated ski trails during ski season, unless otherwise provided. This prohibition does not apply to service animals.

(4) Domestic animals are prohibited from biting, chasing, harassing, or creating a nuisance, annoyance, or danger to visitors, park wildlife, and other animals. In addition to any other penalty provided in this part, individuals in possession of such animals may be expelled from the state park.

(5) Individuals bringing domestic animals in state parks shall be responsible for proper removal and disposal of any waste produced by the animal.

(6) Ranging, grazing, watering, or allowing livestock in state parks is prohibited except where specifically permitted or when authorized by a lease, license, or other written agreement with the department.

(7) Unauthorized animals including livestock may be impounded and will not be returned to the owner until the costs of capture and holding the animal are reimbursed to the department. Appeal from an impoundment may be heard pursuant to [NEW RULE XXIV].

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE IX HORSES AND PACK ANIMALS (1) Riding or leading horses, llamas, or similar animals is prohibited:

(a) on trails in any state park that are posted to exclude such activity;
(b) off trail in any state park area, except where specifically authorized; and
(c) in any campgrounds, except designated horse or pack-oriented camping areas.

(2) The park manager may open or close trails to such use. The decision to open or close a trail shall include an evaluation of factors including, but not limited to, conflict with other park users, public safety, and damage to park resources and/or facilities. Trails designated open for such use may be temporarily closed by the park manager due to emergency health, safety, or resource protection considerations.

(3) Any person bringing a horse, llama, or similar animal into a state park area shall clean up animal feces, feed, or bedding materials in parking lots, at trail heads, and other central locations used by park visitors.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE X WEAPONS (1) Discharge of any weapon as defined in 45-2-101, MCA, including, but not limited to, firearms, explosives, air or gas weapons, paintball guns, arrows from a bow, spears, or spear guns on or over either land or water is prohibited in state parks, except where a designated area is otherwise provided. Areas may be opened to shooting when the regional park manager determines there is not undue hazard to human life or property.

(2) The possession, display, carrying, discharge, or use of a firearm in a state park must be in compliance with Title 45, chapter 8, part 3, MCA.

(3) In addition to any other penalty provided, individuals violating this rule may be expelled immediately from the state park, as provided in [NEW RULE XXIV].

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XI HUNTING AND TRAPPING (1) Hunting and trapping are prohibited in state parks unless authorized by the board.

(2) Authorized hunting within a state park shall conform to all Montana hunting laws, rules, and regulations.

(3) Hunting is prohibited within 200 yards of visitor centers, administrative buildings, parking lots, maintenance buildings, picnic shelters, playgrounds, campgrounds, tipis, yurts, cabins, residential housing, or other similar facilities.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XII MOTOR VEHICLES (1) The rules in this subchapter apply to all vehicles and motor vehicles, as defined in 61-1-101, MCA, including, but not limited to, motorcycles, snowmobiles, off-highway vehicles, trailers, and motor homes, collectively referred to herein as "motor vehicles."

(2) The following are prohibited in state parks:

(a) operating a motor vehicle in violation of posted traffic rules, including but not limited to, speed limits, yield or stop signs, and directional signage;

(b) driving off authorized roadways, except onto designated parking areas; and

(c) driving on any road, trail, or area which is specifically posted against such use.

(3) No person shall operate any off-highway vehicle in a state park on designated trails in violation of the registration and operating regulations in Title 23, chapter 2, part 8, MCA.

(4) Operating a snowmobile in a state park, except in designated areas, is prohibited.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XIII PARKING (1) Parking of any motor vehicle in a state park, except either in a designated parking area, or in another area with the permission of the park manager, is prohibited. If the operator is not with the vehicle at the time of the violation, the registered owner of the motor vehicle is personally responsible. A defense that the motor vehicle was driven into a state park by another person is not allowed unless it is shown that at the time, the motor vehicle was being used without the consent of the registered owner.

(2) The park manager may designate and sign individual parking spaces or groups of parking spaces for specific uses such as, but not limited to, boat trailer parking, day use parking, and registered camper parking. Use of such parking spaces for other than the specified use is prohibited.

(3) Upon finding a vehicle in violation of this rule, the authorized personnel shall take its license plate or vehicle identification number and may take any other information displayed on the vehicle which may identify its user and shall conspicuously affix to the vehicle a notice of the parking violation.

(4) The notice of parking violation shall contain the following:

(a) a statement that the notice represents a determination that a violation of this rule has been committed by the owner or user of the vehicle and that the determination shall be final unless contested as provided by this article;

(b) a statement of the monetary penalty established for the parking violation, including that the violation may subject the owner to additional administrative fees if not paid within ten working days of the date of issuance of the citation; and

(c) a statement of the options provided herein for responding to the notice including appeal and the procedures necessary to exercise these options.

(5) For any person found to be in violation of (1), the fines shall be as follows:

(a) for each improper parking violation, the penalty shall be \$25.00;
and

(b) for parking in a designated handicap parking space, the penalty shall be \$100.00.

(6) In addition to any fines imposed under (4), any vehicle found to be in violation of (1) may be towed at the owner's or operator's expense.

(7) The provisions of [NEW RULE XXIII] do not apply to this rule.

(8) Appeal of a parking violation may be heard pursuant to [NEW RULE XXIV].

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XIV ABANDONED PROPERTY (1) Property left unattended for more than 48 hours may be impounded, except where otherwise posted. Vehicles found abandoned are subject to 61-12-401, MCA. Unattended property that interferes with visitor safety, orderly management of the park, or presents a threat to park resources may be impounded immediately.

(2) Unattended property impounded pursuant to this rule shall be deemed abandoned unless claimed by the owner or an authorized representative thereof within 60 days. The 60-day period shall begin when the rightful owner of the property has been notified, if the owner can be identified, or from the time the property was placed in the agency's custody, if the owner cannot be identified.

(3) Property left unclaimed pursuant to (2) will be turned over to the department's property division. The department will then turn the abandoned property over to the Department of Administration to be processed as surplus state property.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XV USE OF NONMOTORIZED VEHICLES (1) Whenever used in this subchapter, nonmotorized vehicle shall mean any wheeled, operator-propelled equipment that transports the operator on land, including cycles, in-line skates and skateboards, or similar devices, but not wheelchairs or other medically prescribed devices utilized by individuals with disabilities.

(2) The following is prohibited:

(a) operation of nonmotorized vehicles on trails in any state park, that are posted to exclude such activity. The regional park manager may open or close trails to such use. This decision shall include an evaluation of factors including, but not limited to, the degree of conflict with other park users, public safety, and damage to park resources and/or facilities related to nonmotorized vehicles;

(b) operation of nonmotorized vehicles off trail or off road in any state park, except where authorized by the regional park manager and posted to specifically or conditionally permit such activity; and

(c) operation of nonmotorized vehicles upon docks, piers, curbs, steps, or other structures not specifically installed to accommodate such equipment.

(3) Individuals operating nonmotorized vehicles in state park areas shall:

(a) obey regulatory signs, including those permanently or temporarily erected, that govern the timing, location, speed, type and/or manner of operation, designed to promote visitor health and safety;

(b) restrict speed and manner of operation to reasonable and prudent practices relative to terrain, prevailing conditions, equipment, personal capabilities, personal safety, and the safety of all other park visitors;

(c) yield the right of way to pedestrians and animals;

(d) slow down, make presence known well in advance, and use courtesy and caution when approaching or overtaking other people or animals;

(e) not disturb or harass wildlife, people, or animals; and

(f) display adequate lighting during hours of darkness.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XVI UNMANNED AIRCRAFT SYSTEMS AND MODEL AIRCRAFT (1) Launching or operating an unmanned aircraft system, drone, or model aircraft from a state park is prohibited unless:

- (a) use is authorized by a commercial use or special use permit; or
- (b) use occurs within an area specifically designated for such use by the park manager.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XVII GEOCACHING (1) Placement of any geocache in a state park requires a permit approved by the park manager.

(a) The permit will be valid for no more than two consecutive years and may be reissued for an additional two consecutive years, after which the geocache must be removed.

(b) The park manager may limit the number of permits issued based upon natural resource protection and social conflict concerns or other determining factors.

(c) Geocaches involving commercial activities or special events are subject to additional review and permitting requirements and may require a fee.

(2) The park manager or designee may designate facilities and areas where geocaches will be allowed and/or prohibited.

(3) Geocaches may not contain the following items:

- (a) alcohol;
- (b) medications;
- (c) illegal drugs or drug paraphernalia;
- (d) weapons;
- (e) hazardous materials;
- (f) food items;
- (g) personal hygiene products;
- (h) money; and
- (i) socially inappropriate or offensive materials.

(4) Unauthorized geocaches will be removed and treated as abandoned property, pursuant to [NEW RULE XIV].

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XVIII SOLICITING AND PUBLIC ASSEMBLY (1) Soliciting or demanding gifts, money, goods, or services is prohibited in state parks, except pursuant to the terms and conditions of a special use permit or commercial use permit, or other contract issued for such activity.

(2) Public assembly of one or more individuals, including demonstrations, picketing, speechmaking, marching, holding vigils or religious services, and similar forms of conduct that involve the communication or expression of views or grievances or are reasonably likely to attract a crowd or onlookers are allowed in state parks when a permit has been issued. An application for a permit may be

submitted on forms as may be provided by the department or in any written form so long as the permit application sets forth the following:

- (a) the name or organization name, address, and phone number of the applicant;
- (b) the date, time, duration, nature, and place of the proposed event, including a description or schedule of events and activities;
- (c) an estimate of the number of people expected to attend, including the basis for the estimate;
- (d) special equipment, including temporary structures such as speakers' stands, platforms, lecterns, chairs, benches or the like, and any sound amplification equipment to be used in connection with the event;
- (e) special facilities including emergency first aid, additional sanitation and refuse collection facilities, to be used in connection with the event;
- (f) crowd control to be provided by the event sponsor;
- (g) designation of a responsible individual with whom officials may coordinate event activities, plans, and preparations; and
- (h) whether there is any reason to believe that there will be an attempt to disrupt, protest, or prevent the event.

(3) Areas within state parks may be designated for permitted public assembly activities provided that activities would not:

- (a) cause injury or damage to park resources;
- (b) unreasonably impair the atmosphere of peace and tranquility maintained in natural, historic, or commemorative zones;
- (c) unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the department;
- (d) substantially impair the operation of public use facilities or services of concessioners, holders of commercial use authorizations, or contractors;
- (e) present a clear and present danger to the public health and safety; or
- (f) otherwise be incompatible with the nature and traditional use of the particular state park involved.

(4) The department must issue a permit or a written denial within ten days of receiving a complete and fully executed application. A permit will be issued unless:

- (a) a prior permit application has been or will be granted for a permit for the same time and place, and the activities authorized by that permit do not reasonably allow multiple occupancy of that particular area;

(b) it reasonably appears that the event will present a clear and present danger to public health or safety;

(c) the event is of such nature or duration that it cannot reasonably be accommodated in that particular state park, considering such things as damage to park resources or facilities, impairment of a protected area's atmosphere of peace and tranquility, interference with program activities or impairment of public use facilities;

- (d) the location applied for has not been designated as available under (3); or
- (e) the activity would constitute a violation of an applicable law or regulation.

(5) The permit may contain conditions reasonably consistent with the requirements of public health and safety, protection of park resources, and the use of the park area for the purposes for which it was established. It may also contain

reasonable limitations of the equipment used and the time and area within which the event is allowed.

(6) Violation of these regulations or the terms of the permit are prohibited and may lead to permit revocation in addition to other applicable penalties.

(7) Revocation of a permit or order to cease will be made in writing, with the reasons clearly set forth. In emergency situations, verbal revocation or order to cease may take place, followed by written confirmation within 72 hours.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XIX SMOKING (1) Smoking is prohibited:

(a) in areas where smoking has been posted as prohibited to protect park resources or reduce fire risk;

(b) during park-sponsored special events or programs within a state park such as guided hikes and outdoor interpretive programs; and

(c) in any other area so designated by the park manager.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XX RESTRICTED AREAS AND NIGHT CLOSURES

(1) Entering any restricted area of a state park is prohibited.

(2) State parks may post opening and closing hours.

(3) State parks where camping is not allowed are open from sunrise to sunset unless otherwise authorized.

(4) The division administrator may close portions of a state park to the possession or consumption of alcoholic beverages for purposes of public health or safety.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XXI DISTURBANCES (1) The following are prohibited in state parks:

(a) creating excessive noise, causing excessive noise to be created, or otherwise conducting oneself in a manner that disturbs others;

(b) operating sound-emitting electronic devices, including but not limited to speakers, radios, televisions, or other such equipment, at a volume which projects sound beyond the person's immediate vicinity in a manner that disturbs other visitors;

(c) operating generators during state park quiet hours between 10:00 p.m. and 7:00 a.m.;

(d) arguing with, threatening, harassing, or intimidating another visitor;

(e) creating a safety hazard to oneself or others; and

(f) blocking traffic or otherwise impeding access to or from a state park.

(2) In addition to any other penalty provided, individuals violating this rule may be expelled immediately from the state park, as provided in [NEW RULE XXIII].

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XXII INTERFERENCE WITH AGENCY FUNCTIONS (1) The following are prohibited in state parks:

(a) threatening, resisting, intimidating, arguing with, or intentionally interfering with any official, employee, or agent of the department engaged in the performance of his or her official duties or on account of the performance of his or her official duties;

(b) failing to comply with a lawful order issued by a department official, employee, or agent acting pursuant to these rules;

(c) knowingly giving a false report or false information to a department official, employee, or agent:

(i) on an application for a permit;

(ii) for the purpose of misleading a department official, employee, or agent in the conduct of official duties; or

(iii) that causes a response by the department to a fictitious event.

(2) In addition to any other penalty provided, individuals violating this rule may be expelled immediately from the state park, as provided in [NEW RULE XXIII].

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XXIII PENALTIES (1) Except where otherwise specified, a violation of these rules is a misdemeanor pursuant to 23-1-106, MCA.

(2) In addition to (1), where specified in this subchapter, individuals violating these rules may also be expelled immediately from the state park for up to 48 hours.

(3) For additional violations of the rules of this subchapter following the initial 48-hour expulsion provided in (2), the regional park manager may suspend the individual from all state parks for any violation of the rules in this subchapter accordingly:

(a) a second violation shall result in a 15-day suspension;

(b) a third violation shall result in a 30-day suspension;

(c) a fourth violation shall result in a six-month suspension;

(d) a fifth violation shall result in a one-year suspension.

(4) Failure to abide by any suspension is a misdemeanor pursuant to 23-1-106, MCA.

(5) Appeals from a suspension issued by the regional park manager provided in (3) may be heard pursuant to [NEW RULE XXIV].

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

NEW RULE XXIV APPEALS (1) Appeal pursuant to this subchapter shall be filed within 30 days of receiving the notice of violation or of being expelled. Appeals shall be submitted to the director, in writing, along with the violation being appealed, and the basis for that appeal.

(2) Appeals to the director shall be addressed to: Montana Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701.

(3) Upon receipt of an appeal meeting the requirements of (1), the director shall respond to the appeal within 60 days. The director may deny the appeal, in whole or in part, or uphold the appeal, in whole or in part.

(4) Anyone wishing to appeal the decision of the director must notify the board within ten days of receiving the decision of the director.

(5) Appeals to the board shall be addressed to: Montana State Parks and Recreation Board, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701.

(6) Upon receipt of an appeal, the board shall respond to the appeal within 60 days. The board may deny the appeal, in whole or in part, or uphold the appeal, in whole or in part, or may return the decision to the director for further clarification or consideration.

AUTH: 23-1-106, 23-1-111, MCA

IMP: 23-1-106, 23-1-111, MCA

REASON: The existing public use rules have not been revised in many years and no longer effectively address many management concerns nor do they provide effective guidance for staff to implement in Montana state parks. The board is proposing new public use rules that will apply in state parks only. The existing public use rules will remain in place for all other designated recreation areas under the control, administration, and jurisdiction of the Department of Fish, Wildlife and Parks.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Department of Fish, Wildlife and Parks State Parks Division, Attn: Maren Murphy, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail fwpparksrules@mt.gov, and must be received no later than April 15, 2016.

5. Kaedy Gangstad or another hearing officer appointed by the department has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department, commission, or board. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Zach Zipfel
Zach Zipfel
Rule Reviewer

/s/ Tom Towe
Tom Towe
Chairman
State Parks and Recreation Board

Certified to the Secretary of State March 7, 2016.